

Appl. No.: 10/723,079
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Off. Act. Dated: 07/01/2005

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested in view of the foregoing amendments and discussion presented herein.

1. Rejection of Claim 1 under 35 U.S.C. § 102(b).

Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by Abraham (U.S. No. 5,592,482).

After carefully considering the grounds for rejection the Applicant responds as follows.

Claim 1. Claim 1 is an independent claim describing *"an apparatus for controlling video and audio components distributed over a power-line communications (PLC) network"*.

Amended Claim 1 recites with greater particularity a number of aspects which are not taught or inherent in the Abraham reference, and retains aspects which Applicant contends were already distinctive over the Abraham reference.

ABRAHAM DOES NOT TEACH CLIENT-SERVER SYSTEM

The instant application within Claim 1 teaches controlling video and audio streams between any media devices connected over the PLC network. Abraham (1) does not provide for passing streams between any media device, (2) nor does it teach the use of client-server based networking. Abraham provides a fixed relationship between the media devices (television sets) and control boxes, with each control box PLVC1 - PLVC4 having its own separate remote controls. Furthermore, the communication over the home electrical wiring is using analog signals divided by frequency - which does not comport to networking.

The instant application, as reflected by Claim 1, describes the use of a network operating according to a client-server paradigm, this is well represented in the specification, such as in paragraphs [0067]-[0068], [0086], [0109], [0112], [0137], [0150]

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and so forth.

The following are definitions for these terms from the Microsoft Encarta Dictionary.

"network" - "...a system of two or more computers, terminals, and communications devices linked by wires, cables or a telecommunications system, in order to exchange data."

"client-server" - "...used on a computer network in which processing is divided between a client program running on a user's machine and a network server program".

ABRAHAM DOES NOT TEACH COMMAND REROUTING

In addition, it can be readily recognized that Abraham does not provides a means for rerouting commands received by a first media device, such as televisions 44, 46, 48, 50 and 52 in Fig. 1, to a server. Remote control 53 is configured for controlling the cable box. As stated by Abraham: *"An example of such a selection system is a remote control cable selector box as is commonly provided by cable television service providers. This type of system is illustrated as remote control 53..."*. Furthermore, within Abraham *"a separate remote control device, such as remote control 53 would operate each selector section"*.

There is no teaching whatsoever, or motivation therein, for rerouting commands which are not directed at a given media device to the server. More particularly, there is no teachings for a media device to recognize that commands are not specific to its operation and to reroute those commands to a server.

It will be recognized by one of ordinary skill in the art that Applicant's invention can involve a modified device, such as a television, which normally receives a first group of commands and ignores commands outside of that first group; to instead pass those unknown commands over the power line network. The server is configured for receiving those commands from any number of non-dedicated media devices for controlling the communication of video and audio streams between media devices,

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such as to the device through which the commands were passed. These aspects are recited throughout Applicant's specification, such as the following paragraphs.

Paragraph 14:

"In general, the system allows rerouting of remote control signals, such as from an infrared (IR) remote control transmitter to a server connected over the PLC network. Control signals from remote controls are routed from a receiving device, such as a television, to a server. Generally only selected control signals are routed, with device specific signals such as volume being responded to directly by the receiving device."

Paragraph 105:

"Referring to FIG. 1, the user enters commands on handheld remote control 32 for controlling operations of the VCR (or a particular VCR if more than one are located in the network). In this aspect of the invention the command parsing routines, or other programming within the television set (or other remotely controlled device), recognizes that the command does not match commands directed at the television set itself and thereby passes the commands through to the communication channel, which in this case is the PLC network. By passing through commands unknown to the television control circuits, functionality can be added to the network and controlled by a remote control device, without the need to update the software of the television (or other IR-equipped device which receives the commands)."

Applicant system allows rerouting commands received through any media device while the content can be selected by the server from other media devices coupled to the power-line network. By contrast, Abraham '482 describes the halves of a set-top box communicating with one another over a dedicated channel carried over the power-line as described above.

ABRAHAM DOES NOT TEACH A SERVER

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In supporting the rejection the distribution box 12 of Abraham '482 was equated to Applicant's "server". However, this assertion is only placed there by the Examiner in overgeneralizing the Abraham reference. The term "server" is not even found in the Abraham reference, and of course there is no discussion of a client server relationship - Abraham is ANALOG. However, the network based client-server arrangement is well described in the instant application.

The Abraham '482 reference discusses the use of a group of set-top boxes each having a separate remote control device for performing channel selection; a feature which is already being performed within current set-top boxes. Abraham allows these boxes to share the same power line by assigning each to different portions of the bandwidth. Considering these items as a "Server" is certainly not in keeping with the teachings of the Abraham reference. Abraham instead teaches what could best be described as "separate set top boxes sharing a power line communication channel" or at best a "distributed set-top box". Abraham discloses a single media device wherein channel selections are made by from a cable or other source separately into each of the four single media devices, specifically a set-top box. It can be readily seen that Abraham divides the functionality of multiple set-top boxes between a first and second portion, thus creating a set-top box which is "distributed" in two places across the power line communications (PLC) network. The first set-top box portion residing at an access to the cable and a second portion, coupled to the first portion via the home power line wiring, is configured for communicating channel selections to the first portion. Even the portions of the set-top box in Abraham are numbered to show their one-to-one relationship, with portions 14 and 36 in FIG. 1 both marked as PLVC 1 for communicating between Selector1 22 and TV1 44.

In addition, this one-to-one structure between PLVC1 sections 14, 36; PLVC2 sections 16, 38; PLVC3 sections 18, 40; and PLVC4 sections 20, 42, is not merely a "design choice". This can be readily seen from column 6, lines 10-16 of Abraham '482.

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The term "server" is commonly understood to provide a one-to-many relationship, wherein the server can "serve" content to any client devices connected on a network; and this is how the term "server" is used in Applicant's invention. Abraham does not even use the term server as it does not fit in with simply channelizing bandwidth for analog communications.

The device of Abraham is not capable of communicating with a plurality of media devices thus establishing this one-to-many server relationship. Each set-top box first portion of Abraham is configured for analog communication over a specific channel with specific set-top box second portion operating over that same frequency range and encoding. The purpose for this is discussed in the background of Abraham on as described at column 1, line 60 through column 2, line 4:

"With the increasing number of stations available through cable television, users may require and/or desire access to all of the available stations. In the current cable television systems, all cable television channels are broadcast throughout the house over the coaxial cable. As the number of available channels approaches into the hundreds, the present system becomes unworkable as there is a limit of approximately 100 channels (of programming) which can be simultaneously broadcast over conventional coaxial cable in an uncompressed analog format. This results in a limitation of present cable distribution systems within a house or other structure."

This analog nature taught by Abraham is not incidental as described in column 4, lines 1-4 of the Abraham reference.

"System 10 is designed to operate using analog signals distributed throughout a home or building and thus, does not require more expensive digital to analog and analog to digital equipment necessary to make these conversions."

It should be recognized that the communication between the halves of the distributed set-top box is proprietary in nature; therein it is not configured to provide for a client-

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server relationship as necessitated by the aspects recited in Applicant Claim 1.

By contrast, the instant application clearly describes client-server methodology and the ability to establish a one-to-many relationship. Although described in Claim 1, even more details of this is provided, such as in Claim 3 and in the specification of the instant application as exemplified by the following sections.

Paragraph 0086:

"A client-server model is generally adopted in the present invention so that coordination of device operation may be readily performed without complex interoperability issues arising. It should be appreciated, however, that any of the devices may operate as a server, or alternatively that they communicate directly with one another within the system without the need of a dedicated server."

Paragraph 0069:

"It should be recognized that at least one PLC ready media device, and typically a plurality of said devices, would be coupled to the server over the PLC network."

Consequently, it has been shown that the cited reference can not be properly equated to the elements recited by Applicant's Claim 1.

DIFFERENT OBJECTS AND OPERATING PRINCIPLES

It is not surprising that the aspects recited in Applicant's Claim 1 do not comport with the teachings of the Abraham reference, because the purpose of Abraham and the principles of operation described by Abraham are not the same as in the invention described by the instant application.

As has been described above, Abraham does not teach the use of a "server" as that term is commonly known or described within the instant application, but instead teaches a distributed form of set-top box. The distributed set-top box of Abraham is configured with first and second halves which are adapted to communicate exclusively with one another in their own portion of the power line bandwidth. By contrast, the

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Applicant teaches a true "server" as that term is commonly known, which can communicate with any media device configured for operation over the power line network (PLC).

As a further indication of the different principles of operation, the Applicant teaches communicating commands, video and audio over the PLC network in a digital form. The term power line communications "network" itself is indicative of the use of digital signals, while the text and figures refer to its use specifically. For example, see paragraph 90 of the instant application:

"The analog signals are encoded within A/D converters 80, 82, 84, 86 prior to MPEG processing. For example, analog NTSC video signals received from video one are analog-digital converted in A/D 80 and then MPEG encoded in MPEG encoder 88. Analog audio signals from audio one are analog-digital converted in A/D 82 and MPEG encoded in MPEG Encoder 88. Similarly, channel two video and audio signal are encoded in A/D converters 84, 86 and processed in MPEG encoder 90. Switch 92 allows connecting A/D 82 with MPEG encoder 88, these signals marked with a slash two ("2/") on the line indicate these as stereo signals."

In addition, it can be seen from FIG. 2 that the encoders in the server utilize a standard digital encoding scheme, exemplified by an MPEG (Motion Picture Experts Group) standard.

In paragraph 97, it can be seen that a single digital communication stream from the server, including at least two video and audio streams 76, 78, are shown while other forms of communication, such as cable 16, IEEE 1394 ports and similar can be carried.

"Multiplexer 96 operates to multiplex the input streams and couples the result to PLC Interface 116 which sends the streams to the power line through power plug 38, or a 1394 interface 120 which sends the streams through IEEE 1394 ports 122, 124."

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Accordingly, the invention by the Applicant operates according to different purposes and operating principles than are taught by the Abraham reference.

Therefore, Applicant respectfully submits that Abraham does not anticipate ALL claim elements as required to establish a Prima Facie anticipation rejection, while the reference suffers from other intractable shortcomings. The Applicant respectfully requests that the rejection of Claim 1 and the claims that depend therefrom be withdrawn.

2. Rejection of Claims 2-8, 10-14, 19, 40-49 and 53-54 under 35 U.S.C. § 102(e).

Claims 2-8, 10-12, 19, 40-49 and 54 were rejected under 35 U.S.C. § 102(e) as being anticipated by Edson (U.S. No. 6,526,581).

After carefully considering the grounds for rejection the Applicant responds as follows.

Claim 2. Claim 2 is an independent claim describing *"an apparatus for controlling video and audio components distributed over a power-line communications (PLC) network"*.

The teaching of the Edson reference is relied-upon for describing generic aspects of a power-line communications network. However, the important aspect of the present invention which provides for passing through of select commands received from a wireless remote control device onto the PLC network is not taught by the reference.

To recite the above aspect with greater particularity, Claim 2 and a number of the other independent claims have been amended to recite additional information about the pass through nature of commands through a media device adapted for receiving commands from a wireless remote control device.

There is no teaching in the Edson reference for a media device configured to reroute commands, as received from a wireless remote control unit, and which are not

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directed to the media device, to the power-line network. Edson does not even discuss the use of the wireless remote controls with the media devices. So clearly there is no teaching within the Edson reference which can be equated to the pass through rerouting aspect of the instant application.

The rerouting aspect is recited in Claim 2 as including programming for (a) interpreting a command code received from a wireless remote control device, (b) recognizing that the command code does not match commands specific to said media device, and (c) rerouting said command by passing said command through said power-line communications (PLC) interface to said server which is configured for controlling the operation of a second media device connected over said power-line communications (PLC) network.

Edson only describes the communication of commands between devices over the respective power line or telephone networks.

Specifically, there is no teaching of "*interpreting a command code from a wireless remote control*". As mentioned Edson provides no discussion on the use of wireless remote control devices. No teaching exists in Edson for "*recognizing that the command code does not match commands specific to said media device*". And furthermore, there is no teaching which comports to "*rerouting said command by passing said command through said power-line communications (PLC) interface to said server...*".

Consequently, numerous aspects of Claim 2 do not comport to the Edson reference, wherein Edson cannot be considered to anticipate amended Claim 2.

Therefore, Applicant respectfully requests that the rejection of Claim 2, and the claims which depend therefrom, be withdrawn.

Claim 40. Independent Claim 40 was also rejected on the basis of Edson. However, Claim 40 recites a number of aspects which do not comport to teachings

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within the Edson reference.

The media device recited in Claim 40 includes a "*means for wirelessly receiving control signals at said media device from a remote control unit*". Nothing within Edson comports to this claim element.

The final element of the claim provides clear distinction over the relied upon reference and the art in general. In particular the "*means for rerouting at least a portion of said control signals which have been received wirelessly at said media device from said remote control, said portion including those control signals which are not directed for use by said media device, said control signals being rerouted over said power-line communications (PLC) network for receipt by a remote media server*".

The above rerouting means provides a number of inherent benefits for the instant application. For example, it allows the server and other media devices through the PLC, to be controlled by a remote control that is used for a single media device. Refer to paragraphs [0011], [0013]-[0014], [0023] and so forth, within the specification. Additional benefits also follow from that discussion, wherein the media device with the remote control does not even need to be programmed to interpret the commands to be sent to the server, it just reroutes any commands not known (directed) to it. Therefore, the media device need not be reprogrammed to handle the new commands.

In any case the rerouting aspect is described by structures not taught by the Edson reference toward purposes not disclosed by the Edson reference. It is well settled that for anticipation under 35 USC 102, the anticipating reference must show all the elements of the claim. As the apparatus of Edson does not include any teachings of media devices connected to a PLC which reroute commands from a wireless remote control, which are not directed to the media device, to the PLC network.

Therefore, Applicant respectfully requests that these grounds for rejection be withdrawn and that Claim 40, and the claims which depend therefrom, be allowed to issue.

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Claim 48. Independent Claim 48 was also rejected on the basis of Edson, but as with Claim 40 recites aspects which do not comport to teachings within the Edson reference.

The media device recited in Claim 48 includes a “*wireless communications interface*”, to which nothing within Edson comports. The media device is also described with programming for: (a) “*interpreting a command code received from a wireless remote control device*, (b) *recognizing that the command code does not match commands specific to said media device*, (c) *rerouting said command by passing said command through said power-line communications (PLC) interface to said server which is configured for controlling the operation of a second media device connected over said power-line communications (PLC) network*”.

The above rerouting means provides a number of inherent benefits for the instant application as described with regard to Claim 40 above.

In any case the new remote control operations based on the rerouting elements of the claim are not taught by the Edson reference toward purposes not disclosed by the Edson reference. It is well settled that for anticipation under 35 USC 102, the anticipating reference must show all the elements of the claim. As the apparatus of Edson does not include any teachings of media devices connected to a PLC which reroute commands from a wireless remote control, which are not directed to the media device, to the PLC network.

Therefore, Applicant respectfully requests that the rejection of Claim 48, and the claims which depend therefrom be withdrawn.

3. Obviousness Considerations of Claims 1-54 and 59-62 under 35 U.S.C. § 103(a).

Nor would the subject matter of Claims 1-54 and 59-62 be obvious to a person having ordinary skill in the art in view of Abraham, Edson, Filison, Tsai, Manis, Ostrover,

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Gray, Gerzeberg, Na, Bullock, either singly or in various combination. None of the references cited by the Examiner, nor the combination thereof, suggests, teaches or provides motivation for systems with media devices which are configured for receiving commands from a wireless remote control, for routing commands not directed to that media device over the power-line communication network to a server.

These references do not provides support singly or collectively for this beneficial aspect which is broken down further within Claim 2 into steps of: interpreting, recognizing and rerouting, or similar in other independent claims.

Nor is there any suggestion, teaching or motivation which could be derived from these references which would cause a person having ordinary skill in the art to so modify a media device according to these teachings.

Therefore, since there is no need for this wireless remote control command rerouting in the references and, further, since there is no suggestion, teaching or motivation which can be found in any of the references from which a person having ordinary skill in the art would find it obvious to modify the system therein to correspond to that described in the Applicant's claims, Claims 1-54 and 59-62 recite structure which is patentable over the cited references for purposes of 35 U.S.C. § 103.

4. Traversal of Rejection of Claims 1 and 40; In re Donaldson.

The Applicant respectfully traverses the grounds for rejection, and cites *In re Donaldson*, 16 F.3d 1189, 1193 (Fed. Cir. 1994)(en banc) as the basis for the traversal. independent Claims 1 and 40 are written in means plus function form pursuant to 35 U.S.C. §112, sixth paragraph, and therefore, must be interpreted during examination under *In re Donaldson*.

In rejecting Claims 1 and 40, as well as the claims that depend therefrom, the Examiner made no specific fact findings as to the scope of equivalents for the means plus function elements in the claims. Instead, the Examiner appears to have followed

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the provisions of MPEP § 2183 ("Making a Prima Facie Case of Equivalence"), which states:

If the examiner finds that a prior art element performs the function specified in the claim, and is not excluded by any explicit definition provided in the specification for an equivalent, the examiner should infer from that finding that the prior art element is an equivalent, and should then conclude that the claimed limitation is anticipated by the prior art element. The burden then shifts to applicant to show that the element shown in the prior art is not an equivalent of the structure ... disclosed in the application. *In re Mulder*, 716 F.2d 1542, 219 U.S.P.Q. 189 (Fed. Cir. 1983). No further analysis of equivalents is required of the examiner until applicant disagrees with the examiner's conclusion, and provides reasons why the prior art element should not be considered an equivalent.

While the Examiner appears to have followed the provisions of MPEP §2183, such provisions are contrary to Federal Circuit law. The Federal Circuit has held that an examiner "*construing means-plus-function language in a claim must look to the specification and interpret that language in light of the corresponding structure ...described therein, and equivalents thereof,*" *In re Donaldson*, 16 F.3d 1189, 1193 (Fed. Cir. 1994)(en banc), and in so ruling expressly denied that "*the PTO is exempt from this mandate.*" *Id.* The Federal Circuit added that it was specifically overruling any precedent that suggested or held to the contrary. *Id.* at 1193-94. In response to the PTO's argument that the court's ruling conflicted with the principle that a claim should be given its broadest reasonable interpretation during prosecution, the Federal Circuit held that the Donaldson decision was setting "*a limit on how broadly the PTO may construe means-plus-function language under the rubric of 'reasonable interpretation.'*" *Id.* at 1194. In other words, an examiner's claim interpretation is not "reasonable" if it is not based on the specification's description of the implementation of the means element of the claim. The court then said, "*Accordingly, the PTO may not disregard the structure disclosed in the specification corresponding to such [means-plus-function] language when rendering a patentability determination.*" *Id.* at 1195.

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Here, as in *Donaldson*, the Examiner is required by statute to look to the Applicant's specification and construe the "means" language as referring to corresponding means disclosed in the specification and equivalents thereof." See *id.* at 1195. However, the Examiner did not construe the means language of these claims, however. Nor did the Examiner find, on the basis of specific facts of record here, that the means disclosed in the Applicant's specification were equivalent to that of the cited references. Instead, as prescribed by MPEP §§ 2183-84, the Examiner simply presumed equivalence. The presumption methodology used here, which the MPEP prescribes, clearly conflicts with the requirements of the Federal Circuit's *Donaldson* decision. The approach taken by the Examiner in this case also conflicts with *In re Bond*, 931 F.2d 831 (Fed. Cir. 1990).

The specific point of these cases is that, in this context, limitations from the specification control the interpretation of the claim. Under §112, paragraph 6, a means-plus-function element of a claim must be construed to mean that which is disclosed in the specification and its equivalents. In *Donaldson*, the Federal Circuit said that "our holding does not conflict with the general claim construction principle that limitations found only in the specification of a patent or patent application should not be imported or read into a claim." In other words, the court was saying that a §112, paragraph 6 "means" element does not need to be "imported or read into" a means-plus-function claim because the specification's limitations and their equivalents are already in the claim by virtue of §112, paragraph 6's command. Thus, the Federal Circuit said (16 F.3d at 1195): "*What we are dealing with in this case is the construction of a limitation already in the claim in the form of a means-plus-function clause and a statutory mandate on how that clause must be construed.*"

Based on the foregoing, the Applicant respectfully submits that the rejection of Claims 1 and 40, as well as the claims that depend therefrom lacks proper foundation and that the rejection should be withdrawn. Those claims, each of which include

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means plus function limitations, should have been interpreted in view of the specification as required by *In re Donaldson*. If those claims had been so interpreted, they would have been allowable since the cited references do not, singly or in combination, teach, suggest or provide motivation or incentive for the subject matter recited in those claims.

5. Amendment of Claims 1-2, 4-8, 11, 19, 40-41, and 46-48.

Claim 1. Independent Claim 1 was amended to recite “*server communication between any media devices connected as clients...*”. Support for the client-server aspect was already recited in Claim 40. Support for the communication with any media device is found in the specification, including paragraph [0103], [0137], [0161], [0163] and so forth.

An element was added reciting “*means for rerouting a command*”; support for which is found through the specification, including paragraph [0014], [0105] and so forth.

Claim 2. The amendment of independent Claim 2 replaces a line about the media device and includes description which distinguishes a first media device which is adapted to communicate with the server, support for which already exists in the claims.

Additional programming steps are delineated for the media device, including “*recognizing*” and “*rerouting*”. Support for these aspects is found in the specification including paragraphs [0014] and [0105].

Claims 4, 5, 8 and 19. Dependent Claims 4, 5, 8 and 19 have been amended to retain compatibility with amended parent Claim 2.

Claim 6. Dependent Claim 6 has been amended to phrase the claim with regard to the media device and not the wireless remote control, which is more in keeping with the language of the base claim.

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Claim 7. Dependent Claim 7 was amended to recite with greater particularity the inclusion of command parsing routines, support for which is found in the specification, including paragraph [0105].

Claim 40. Independent Claim 40 was amended similarly to Claim 2 to specify the means for rerouting a portion of the wireless control signals.

Claim 41. Dependent Claim 41 was amended more correctly use “the” instead of “said”.

Claim 46. Independent Claim 46 was amended to recite the programming aspect as recited in Claim 2, as well as the recognizing step also described in Claim 2.

Claim 47. Dependent Claim 47 was amended to recite “multiple” media devices connected over the PLC network, which is shown in FIG. 1 and FIG. 4, and described in paragraph [0019] of the specification and elsewhere.

Claim 48. Independent Claim 48 was amended in a similar manner as Claim 2, and now recites programming for “*interpreting*”, “*recognizing*” and “*rerouting*”.

6. Addition of Claims 59-62.

Claim 59. Dependent Claim 59 depends from Claim 1 and recites aspects similar to those added to independent Claim 2 with programming for “*parsing commands*” (see paragraph [0105]), “*recognizing*” and “*rerouting*”.

Claims 60-62. Claim 60-62 depend from independent Claims 2, 7 and 40 respectively. These claims similarly recite the embodiment in which the first media device comprises a television set, having a first portion of the wireless remote control commands for controlling local viewing, and a second portion of the controls which are not executed by the television set, but instead passed over the PLC network for interpretation by a server. Support for these aspects are found in the specification, including paragraph [0013]:

“Considering an example within a household, a remote control may be operated

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in the living room directed at a television set. A portion of the commands emanating from the remote control unit can be interpreted by the television for controlling aspects of local viewing, for example, audio volume, mute, channel and so forth. Other commands sent from the remote are transmitted by the television set over the PLC network to other devices. Preferably, the commands are received over the PLC by a server which can interpret the commands and control operational aspects of other devices within the system."

7. NO Additional Claim Fees Necessary.

Dependent Claims 55-58 were cancelled in a prior amendment, and dependent Claims 59-62 have been added in the current amendment. Consequently, no additional claim fees are necessary as the four (4) dependent claims which have been added take the place of four (4) dependent claims previously canceled.

8. Extension of time under 37 CFR 1.136(a).

A petition is enclosed for a one (1) month extension as described in 37 CFR 1.136(a); an appropriate fee is enclosed.

9. Request for Continued Examination (RCE).

An appropriate fee is enclosed for an RCE (Request for Continued Examination) of this application (See 37 CFR 1.114).

10. Conclusion.

Based on the foregoing, Applicant respectfully requests that the various grounds for rejection in the Office Action be reconsidered and withdrawn, and that a Notice of Allowance be issued for the present Application to pass to issuance.

In the event any further matters remain at issue with respect to the present

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Application, Applicant respectfully requests that the Examiner please contact the undersigned below at the telephone number indicated in order to discuss such matter prior to the next action on the merits of this Application.

Date: 11/1/05

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. P. O'Banion', written over a horizontal line.

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